

KOVAR

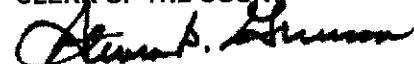
V.

GMRI, INC, d/b/a THE OLIVE GARDEN ITALIAN RESTAURANTS

CASE NO. A-20-820490-C

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY)**

**Exhibit A
State Court Complaint**



1 **COMP**
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CASE NO: A-20-820490-C
 Department 30

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DISTRICT COURT

CLARK COUNTY, NEVADA

18 RACHEL W. KOVAR, an individual,) CASE NO.:
19 Plaintiff,) DEPT. NO.:
20 vs.)
21 GMRI, INC. d/b/a THE OLIVE GARDEN) COMPLAINT AND DEMAND FOR JURY
22 ITALIAN RESTAURANT , a Florida foreign) TRIAL
23 corporation; DOE Individuals I through X; and)
24 ROE Corporations and Organizations I through) ARBITRATION EXEMPTION CLAIMED:
25 V, inclusive,)
26 Defendants.) Matter in Controversy Exceeds \$50,000 in
27) damages
28)

26 ///

27 ///

28

COMES NOW, Plaintiff, RACHEL W. KOVAR (“Ms. Kovar”), by and through her counsel of record, the law firm O'REILLY LAW GROUP, LLC; GILLOCK & ASSOCIATES; and SAM & ASH, LLP, and hereby makes her complaint against the above named Defendants, DOE Individuals I through X, and ROE Corporations and Organizations I through V, inclusive (collectively referred to as “Defendants”) as follows:

I.

PARTIES

1. At all times relevant to this case and controversy, Plaintiff Ms. Kovar was, and is, a resident of San Francisco, California.

2. At all times relevant to this case and controversy, GMRI, INC. was, and is, a Florida foreign corporation, doing business as THE OLIVE GARDEN ITALIAN RESTAURANT ("Olive Garden"), licensed to do business in the City of Las Vegas, located at 10800 W. Charleston Blvd., Las Vegas, Nevada 89135, and thereby subject to the laws of the State of Nevada.

3. Plaintiff is without sufficient information to properly name the true names of defendants DOE Individuals I through X and ROE Corporations and Organizations I through V (“Fictitious Defendants”), and Plaintiff reserves the right to amend the complaint to more properly identify the Fictitious Defendants. Each Fictitious Defendant is in some way liable to Plaintiff or claims some right, title, or interest in the Olive Garden that is subsequent to or subject to the interests of Plaintiff. Each Fictitious Defendant is in some way liable for damages to Plaintiff due to the ownership interest, agency relationship, or partnership interest with the Olive Garden and/or its owners, managers, supervisors, employers, employees, contractors, or other principals or agents acting for or on behalf of the Olive Garden. Each Fictitious Defendant is directly and/or vicariously liable to Plaintiff due to the actual, apparent, implied, or express authority granted to or by such Fictitious Defendant by or to any owner, manager, supervisor, employer, employee, contractor, or

1 other principal or agent acting for or on behalf of the Olive Garden and any of its subsidiaries or
2 parent companies.

III.

JURISDICTION

4. The Court has personal jurisdiction over the Olive Garden, as it is a Las Vegas licensed restaurant doing business within Clark County, Nevada.

5. The Court has subject matter jurisdiction as to this case and controversy as the injury sustained by Ms. Kovar occurred in Clark County, Nevada.

6. Upon information and belief, the Court has jurisdiction over the Fictitious Defendants, as the Fictitious Defendants engaged in business or took actions within the State of Nevada regarding the alleged injuries sufficient to establish personal jurisdiction.

III.

VENUE

7. Venue is proper in this judicial district, because the case or controversy arises from incidents occurring in this district.

IV.

FACTUAL BACKGROUND

(Allegations Common to All Causes of Action)

8. On or about September 17, 2018, Ms. Kovar was dining at the Olive Garden at 10800 W. Charleston Blvd. in Las Vegas, Nevada, celebrating her birthday with family and friends.

9. On or about September 17, 2018, an employee of the Olive Garden unexpectedly, and without warning, dropped stacks of used tableware including, but not limited to, plates and glasses onto Ms. Kovar's head, neck, shoulders, and upper back (the "Incident") while she was sitting down dining.

1 10. As a result of the Incident, Ms. Kovar felt immediate radiating pains in her head,
2 neck, bilateral shoulders, and back.

3 11. Embarrassed, crying, and in severe pain, Ms. Kovar immediately rushed to the
4 restroom.

5 12. While in the bathroom, Ms. Kovar proceeded to remove portions of her clothing,
6 noticing shards and chips of glass falling to the floor from under her clothing.

7 13. After the Incident, Ms. Kovar was taken back to her hotel by her friends. While in
8 the hotel room, Ms. Kovar took ibuprofen in an attempt to moderate her pain.

9 14. All during the night of September 17, 2018, Ms. Kovar's pain did not subside; she
10 continued to endure excruciating burning pains in her back, head, neck, and shoulders.

11 15. On or about the morning of September 18, 2018, Ms. Kovar presented herself to the
12 emergency room of Spring Valley Hospital Medical Center ("Spring Valley Hospital") in Las
13 Vegas, Nevada.

14 16. Ms. Kovar underwent x-rays of her right shoulder and subsequently was discharged
15 with prescribed pain medications and muscle relaxers; she was instructed to return to the
16 emergency room if her symptoms worsened or persisted.

17 17. Ms. Kovar continued to have worsening pains including, but not limited to,
18 numbness, cold and tingling sensations, and radiating pains in her right arm.

19 18. As a result of these worsening symptoms, Ms. Kovar returned to the emergency
20 room of Spring Valley Hospital on or about September 29, 2018.

21 19. A CT scan of Ms. Kovar's neck was performed revealing a type II fracture of the
22 cervical spine.

23 20. Ms. Kovar was placed in a cervical collar and admitted to Spring Valley Hospital
24 for consultation of her neck fracture.

21. Thereafter, Ms. Kovar returned to her home in San Francisco, California, where she continued to receive medical care and treatment for her injuries and neck fracture; she has been advised that she will require surgical intervention.

22. Subsequent to the Incident, Ms. Kovar became ill with severe pneumonia, which developed into chronic asthma, requiring lung treatments.

23. As a result of the Incident, Ms. Kovar suffers from depression, stress, and anxiety; she remains fearful of her cervical fracture worsening or becoming paralyzed if she is bumped into by someone or something is dropped on her.

24. As a result of the stress and anxiety caused by this Incident, Ms. Kovar suffers from sleeplessness.

25. As a result of the depression caused by this Incident, Ms. Kovar takes depression medication.

26. As a result of the Incident, Ms. Kovar has suffered past and future general and special damages, including lost wages, medical expenses, emotional distress, and pain and suffering.

27. As a result of the Incident, Ms. Kovar has had to retain counsel to prosecute this action.

FIRST CAUSE OF ACTION

(Vicarious Liability/Respondeat Superior as to Defendant OLIVE GARDEN)

28. Ms. Kovar repeats and re-alleges the preceding paragraphs as though fully set forth herein by this reference.

29. On or about September 17, 2018, an employee or agent of the Olive Garden negligently breached a duty of care owed to Ms. Kovar when the employee caused a stack of plates and glasses to fall down on Ms. Kovar's head, neck, back, and shoulders.

30. As a result of the negligence of the employee, Ms. Kovar has suffered the injuries and damages alleged herein.

31. Olive Garden is vicariously liable for the negligence of its employees and agents that occur while the employee or agent is acting within the scope of his/her employment.

32. The employee or agent of the Olive Garden who injured Ms. Kovar was acting within the scope of his/her employment when the employee breached the duty owed to Ms. Kovar as the employee was transporting used tableware through the restaurant seating area.

33. Therefore, Olive Garden is vicariously liable for the negligence of its employee or agent and for Ms. Kovar's injuries and damages as alleged herein and as proven at trial.

34. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar has suffered past and future general damages in an amount in excess of \$15,000.00.

35. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar has suffered past and future special damages in an amount in excess of \$15,000.00.

36. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar has had to retain counsel to prosecute this action and is therefore entitled to collect her reasonable attorneys' fees and costs.

VII.

SECOND CAUSE OF ACTION

(Negligence as to Defendant OLIVE GARDEN)

37. Ms. Kovar repeats and re-alleges the preceding paragraphs as though fully set forth herein by this reference.

38. As alleged herein, Olive Garden owed a duty of reasonable care to Ms. Kovar as an invitee and patron of its restaurant.

39. Olive Garden breached that duty of care when its employee or agent dropped tableware onto Ms. Kovar's head, neck, back, and shoulders.

1 40. As a result of this breach, Ms. Kovar suffered injuries and damages as alleged
2 herein.

3 41. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar
4 has suffered past and future general damages in an amount in excess of \$15,000.00.
5

6 42. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar
7 has suffered past and future special damages in an amount in excess of \$15,000.00.
8

9 43. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar
10 has had to retain counsel to prosecute this action and is therefore entitled to collect her reasonable
attorneys' fees and costs.
11

VII.

THIRD CAUSE OF ACTION

(Negligent Infliction of Emotional Distress as to Defendant OLIVE GARDEN)

15 44. Ms. Kovar repeats and re-alleges the preceding paragraphs as though fully set forth
herein by this reference.
16

17 45. Olive Garden and its employee or agent acted in a negligent manner causing injury
18 to Ms. Kovar as alleged herein.
19

20 46. Ms. Kovar suffered emotional and physical distress from the damages caused by
Olive Garden and its employee or agent's negligence.
21

22 47. Olive Garden is liable to Ms. Kovar for negligent infliction of emotional distress
due to the actions of its employee or agent.
23

24 48. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar
25 has suffered past and future general damages in an amount in excess of \$15,000.00.
26

27 49. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar
has suffered past and future special damages in an amount in excess of \$15,000.00.
28

50. As a result of the negligence of the employee or agent of Olive Garden, Ms. Kovar has had to retain counsel to prosecute this action and is therefore entitled to collect her reasonable attorneys' fees and costs.

VIII

PRAAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully requests that this Honorable Court issue an order:

- (a) Awarding past and future general damages to Ms. Kovar for an amount to be determined at trial;
 - (b) Awarding past and future special damages to Ms. Kovar for an amount to be determined at trial;
 - (c) Granting an award of costs and attorneys' fees against each Defendant; and
 - (d) Granting any other just or equitable relief this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff herein demands a jury trial on all issues so triable and does not waive that right.

DATED: September 1, 2020

O'REILLY LAW GROUP, LLC

By: /s/ Timothy R. O'Reilly
Timothy R. O'Reilly, Esq.
Nevada Bar No. 8866
325 South Maryland Parkway
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Page 10 of 13
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Steven D. Grierson
CLERK OF THE COURT

Howard S. Green

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16 *Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

20 Plaintiff,)

21 vs.) INITIAL APPEARANCE FEE
DISCLOSURE (NRS CHAPTER 19)

22 GMRI, INC. d/b/a THE OLIVE GARDEN
23 ITALIAN RESTAURANT, a Florida foreign
corporation; DOE Individuals I through X; and
24 ROE Corporations and Organizations I through
V, inclusive,

25 | Defendants.

1 **INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)**

2 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
 3 parties appearing in the above entitled action as indicated below:
 4

New Complaint Fee	1st Appearance Fee
<input type="checkbox"/> \$1530 <input type="checkbox"/> \$520 <input type="checkbox"/> \$299 <input checked="" type="checkbox"/> \$270.00	<input type="checkbox"/> \$1483.00 <input type="checkbox"/> \$473.00 <input type="checkbox"/> \$223.00
<hr/>	
Name: RACHEL W. KOVAR	<input type="checkbox"/> \$30
	<input type="checkbox"/> \$30
	<input type="checkbox"/> \$30
	<input type="checkbox"/> \$30
<input type="checkbox"/> Total of Continuation Sheet Attached	<input type="checkbox"/> \$_____
TOTAL REMITTED: (Required)	Total Paid \$ <u>270.00</u>

15 DATED: September 1, 2020

O'REILLY LAW GROUP, LLC

16 By: /s/ Timothy R. O'Reilly
 17 Timothy R. O'Reilly, Esq.
 18 Nevada Bar No. 8866
 19 325 South Maryland Parkway
 20 Las Vegas, Nevada 89101
 21 *Attorneys for Plaintiff*

SEP 10 2020



Corporate Creations Network Inc.
801 US Highway 1 North Palm Beach, FL 33408

GMRI, Inc.
Terry Carter
Darden Restaurants, Inc.
1000 Darden Center Drive
Orlando FL 32837

09/11/2020

SERVICE OF PROCESS NOTICE

The following is a courtesy summary of the enclosed document(s). **ALL information should be verified by you.**

Item: 2020-2672

Note: Any questions regarding the substance of the matter described below, including the status or how to respond, should be directed to the contact set forth in line 12 below or to the court or government agency where the matter is being heard. **IMPORTANT:** All changes or updates to the SOP contact individuals or their contact information must be submitted in writing to SOPcontact@corpcreations.com. Any changes will become effective upon written confirmation of Corporate Creations.

1.	Entity Served: Entity Served If Different:	GMRI, Inc. GMRI, Inc. d/b/a Olive Garden Italian Restaurant
2.	Title of Action:	Rachel W. Kovar vs. GMRI, Inc. d/b/a Olive Garden Italian Restaurant, et al.
3.	Document(s) Served:	Summons - Civil Complaint and Demand for Jury Trial
4.	Court/Agency:	Clark County District Court
5.	State Served:	Nevada
6.	Case Number:	A-20-820490-C
7.	Case Type:	Vicarious Liability / Respondeat Superior as to Defendant Olive Garden
8.	Method of Service:	Hand Delivered
9.	Date Received:	Thursday 09/10/2020
10.	Date to Client:	Friday 09/11/2020
11.	# Days When Answer Due: Answer Due Date:	20 Wednesday 09/30/2020
		CAUTION: Client is solely responsible for verifying the accuracy of the estimated Answer Due Date. To avoid missing a crucial deadline, we recommend immediately confirming in writing with opposing counsel that the date of the service in their records matches the Date Received.
12.	Sop Sender: (Name, City, State, and Phone Number)	Timothy R. O'Reilly, Esq. Las Vegas, NV 702-382-2500
13.	Shipped To Client By:	Priority Mail and Email with PDF Link
14.	Tracking Number:	
15.	Handled By:	291
16.	Notes:	Please note there are other Due Dates listed in the document.

NOTE: This notice and the information above is provided for general informational purposes only and should not be considered a legal opinion. The client and their legal counsel are solely responsible for reviewing the service of process and verifying the accuracy of all information. At Corporate Creations, we take pride in developing systems that effectively manage risk so our clients feel comfortable with the reliability of our service. We always deliver service of process so our clients avoid the risk of a default judgment. As registered agent, our role is to receive and forward service of process. To decrease risk for our clients, it is not our role to determine the merits of whether service of process is valid and effective. It is the role of legal counsel to assess whether service of process is invalid or defective. Registered agent services are provided by Corporate Creations Network Inc.

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15 *Attorneys for Plaintiff*

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 RACHEL W. KOVAR, an individual,) CASE NO.: A-20-820490-C
19 Plaintiff,) DEPT. NO.: XXX
20 vs.)
21 GMRI, INC. d/b/a THE OLIVE GARDEN)
ITALIAN RESTAURANT, a Florida foreign)
corporation; DOE Individuals I through X; and)
ROE Corporations and Organizations I through)
V, inclusive,)
24 Defendants.)
25 _____)

26 **SUMMONS – CIVIL**

27 **GMRI, INC. D/B/A THE OLIVE GARDEN ITALIAN RESTAURANT**

1 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
2 WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
3 READ THE INFORMATION BELOW.**

4 **TO THE DEFENDANT(S):** a civil Complaint has been filed by the Plaintiff(s) against you for
the relief set forth in the Complaint.

- 5 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you,
6 exclusive of the day of service, you must do the following:
7 (a) File with the Clerk of this Court, whose address is shown below, a formal written
8 response to the Complaint in accordance with the rules of the Court, with the
9 appropriate filing fee.
10 (b) Serve a copy of your response upon the attorney whose name and address is shown
11 below.
12 2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and
13 failure to so respond will result in a judgment of default against you for the relief demanded
14 in the Complaint, which could result in the taking of money or property or other relief
15 requested in the Complaint.
16 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so
17 that your response may be filed on time.
18 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
19 members, commission members and legislators each have 45 days after service of this
20 Summons within which to file an Answer or other responsive pleading to the Complaint.

21 **STEVEN D. GRIERSON
22 CLERK OF COURT**

23 Submitted by:

24 **O'REILLY LAW GROUP, LLC**

25 By: /s/ Timothy R. O'Reilly
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Telephone: (702) 382-2500
28 Attorneys for Plaintiff

By: Robyn Rodriguez 9/2/2020
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155
Robyn Rodriguez

Date